

RESOLUTION 2004-1

A RESOLUTION ADOPTING 68 IAC 6-3 AS A FINAL RULE

The Indiana Gaming Commission (Commission) adopts the following resolution pursuant to the authority granted to it under IC 4-33 and pursuant to 68 IAC 1-2-6.

The Commission has considered the following factors:

1. The Commission has begun promulgation of these rules pursuant to IC 4-22. A Notice of Intent to adopt 68 IAC 6-3 was published in the August 1, 2003 edition of the *Indiana Register*. The rules were then published as proposed rules in the October 1, 2003 edition of the *Indiana Register*, at 27 IR 212.
2. The Commission held a public hearing on this rule on October 24, 2003 at 10:30 a.m. in compliance with IC 4-22. The oral comments from the public hearing have been transcribed, and the transcript of the hearing, as well as the written comments, have been made available to the Commission members for review.
3. If the Commission approves the attached rule document as a final rule, the rule will be forwarded to the Office of the Attorney General and the Governor for approval, and filed with the Secretary of State. The rule will be effective 30 days after it is filed with the Secretary of State.

NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION, THAT THE FOLLOWING RESOLUTION IS ADOPTED:

SECTION 1: SCOPE.

This resolution applies to all persons and entities licensed by the Commission, all persons or entities that have applied to the Commission for licensure, any person who does business with an applicant or licensee, and any person who is a patron of a Riverboat Gambling Operation.

SECTION 2: DEFINITIONS.

The definitions set forth in IC 4-33-2 and 68 IAC apply to this resolution.

SECTION 3: ADOPTION OF THE FINAL RULES.

The Commission adopts the following final rules:

68 IAC 6-3 Voluntary Exclusion Program

Pursuant to IC 4-22-2.5 and IC 4-22-2, the Commission readopts these rules, which will be submitted to the Office of the Attorney General for approval as a final rule pursuant to IC 4-22-2-32. Upon approval by the Office of the Attorney General, the rule will be submitted to the

Governor's Office for approval pursuant to IC 4-22-2-33. After the rule has been approved or deemed approved by the Governor, the rule will be submitted to the Secretary of State for filing in accordance with IC 4-22-2-35. The Commission further adopts any stylistic, grammatical, typographical, or other nonsubstantive changes that the Commission staff or the Legislative Services Agency may make to this amendment before it is printed as a final rule in the *Indiana Register*.

SECTION 4: EFFECTIVE DATE.

This Resolution is effective immediately.

SECTION 5: EXPIRATION DATE.

This Resolution expires thirty (30) days from the date and time that the Secretary of State accepts the rules listed in Section 3 for filing as a final rule.

ADOPTED THIS THE 6TH DAY OF FEBRUARY, 2004.

THE INDIANA GAMING COMMISSION:

Donald R. Vowels (FACSIMILE)
Donald Vowels, Chair

ATTEST:

Thomas Milcarek (FACSIMILE)
Thomas Milcarek, Secretary

TITLE 68 INDIANA GAMING COMMISSION

Final Rule

LSA Document #03-204(F)

DIGEST

Adds 68 IAC 6-3 to govern the commission's administration of a Voluntary Exclusion Program in the state of Indiana, which will allow individuals to voluntarily request to have his or her name placed on an exclusion list and be excluded from Indiana riverboats. In addition, riverboat licensees may not cash checks for, issue credit to, or send direct marketing to persons who are identified by this list. Effective 30 days after filing with the secretary of state.

68 IAC 6-3

SECTION 1. 68 IAC 6-3 IS ADDED TO READ AS FOLLOWS:

Rule 3. Voluntary Exclusion Program

68 IAC 6-3-1 General provisions

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 1. (a) This rule applies to riverboat licensees, riverboat license applicants, operating agents, operating agent applicants, owners of facilities under the jurisdiction of the commission, and all persons on riverboats where gambling operations are conducted.

(b) The following definitions apply throughout this rule:

(1) "Request for removal" means a request submitted by a voluntarily excluded individual stating that the individual wishes to be removed from the voluntary exclusion list.

(2) "Request for voluntary exclusion" means a request completed by an individual for placement on the voluntary exclusion list.

(3) "Voluntarily excluded person" means a person who has successfully completed the procedures outlined in this rule to effectuate his or her own exclusion from the gaming areas of facilities under the jurisdiction of the commission.

(4) "Voluntary exclusion list" means a list of names of persons and necessary identifying information of individuals who have elected to voluntarily exclude themselves from the gaming areas of facilities under the jurisdiction of the commission.

(c) Nothing in this rule shall prohibit anyone on the voluntary exclusion list from accessing the gaming areas of a facility under the jurisdiction of the commission for the purpose of carrying out the duties of their employment. An individual who is on the voluntary exclusion list who is hired by a facility under the jurisdiction of the commission must notify the commission office in Indianapolis prior to starting the job. The individual must provide the following information:

(1) Name.

(2) Date of birth.

(3) Name of the facility with which the voluntarily excluded individual will be employed.

(d) Nothing in this rule shall prohibit a riverboat licensee or operating agent from following the procedures outlined in 68 IAC 6-2 to evict a voluntarily excluded person. (*Indiana Gaming Commission; 68 IAC 6-3-1*)

68 IAC 6-3-2 Request for placement on the voluntary exclusion list

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 2. (a) Except as provided in section 1(c) of this rule, a person who participates in the voluntary exclusion program agrees to refrain from entering a gaming area under the jurisdiction of the commission.

(b) Any person may make a request to have his or her name placed on the voluntary exclusion list by following the procedures set forth in this section. The request may be made only by the individual and not by any other person. An individual must not be under the influence of alcohol or drugs at the time he or she makes a request for placement on the voluntary exclusion list.

(c) Any person requesting placement on the voluntary exclusion list must submit a completed request for voluntary exclusion as outlined in subsection (d). The individual must appear in person at a commission office or another location designated by the executive director to complete the request for voluntary exclusion. Commission offices are located on the property of each facility under the jurisdiction of the commission in addition to an office located in Indianapolis that is not located on the property of a facility under the jurisdiction of the commission.

(d) A request for voluntary exclusion must be on a form prescribed by the commission and shall include the following information:

(1) Identifying information, including, but not limited to, the following:

(A) Name, including any aliases or nicknames.

(B) Date of birth.

(C) Current residential address.

(D) Current telephone number.

(E) Social Security number.

(F) A physical description, including height, weight, gender, hair color, eye color, and any other physical characteristic that may assist in the identification of the person.

(G) A photograph of the individual that will be taken by commission agents at the time the request for voluntary exclusion is submitted.

(H) Driver's license number.

(I) Any other information deemed necessary by the commission.

(2) As part of the request for voluntary exclusion, a person must elect the time period for which he or she wishes to be voluntarily excluded. An individual may select any of the following time periods as a minimum length of exclusion:

(A) One (1) year.

(B) Five (5) years.

(C) Lifetime.

After an individual's request for voluntary exclusion has been processed by the commission staff and the individual's name is added to the voluntary exclusion list, that individual may not apply to decrease the length of exclusion. A voluntarily excluded individual who elected to participate in the program for a period of one (1) year or five (5) years may resubmit a request for voluntary exclusion at any time to increase the minimum length of exclusion. An individual who voluntarily excluded for a period of one (1) year or five (5) years will continue to appear on the list after the expiration of that time period until such time as he or she completes a request for removal under section 5 of this rule.

(3) The form shall also include a waiver and release, which shall release and forever discharge the state, the commission, and its employees and agents from any liability to the person requesting placement on the voluntary exclusion list and his or her heirs, administrators, executors, and assigns for any harm, monetary or otherwise, that may arise out of or by reason of any act or omission relating to the request for placement on the voluntary exclusion list or request for removal from the voluntary exclusion list including the following:

(A) The list's processing or enforcement.

(B) The failure of a riverboat licensee or operating agent to withhold direct marketing, check cashing, or extension of credit to a voluntarily excluded individual.

(C) Disclosure of information contained in the voluntary exclusion request or list, except for willfully unlawful disclosure of such information to persons other than entities under the jurisdiction of the commission.

(D) The dissemination of confidential information contained on the exclusion list by facilities under the jurisdiction of the commission to any party not authorized to receive the information.

(4) The form must also contain the signature of the person submitting the request for voluntary exclusion indicating acknowledgement of the following statement: "I am voluntarily requesting exclusion from the gaming areas at all facilities under the jurisdiction of the Indiana Gaming Commission. I certify that the information that I have provided above is true and accurate, and that I have read and understand and agree to the waiver and release included in this request for placement on the voluntary exclusion list. I am aware that my signature below authorizes the commission to direct all Indiana riverboat licensees and operating agents to restrict my gaming activities in accordance with this request. If I have requested to be excluded for life, I am aware that I will be unable to cause my name to be removed from the voluntary exclusion list. If I have elected to be placed on the list for a period of one (1) or five (5) years, I am aware that I will remain on the list until such time as the commission removes my name from the voluntary exclusion list in response to my written request certifying that I do not suffer from a gambling problem. I am aware and agree that during any period of exclusion, I shall not collect any winnings or recover any losses resulting from any gaming activity at all gaming facilities under the jurisdiction of the commission. I understand that any money or thing of value obtained by me from, or owed to me by, a riverboat licensee or operating agent as a result of wagers made by me while on the voluntary exclusion list shall be subject to forfeiture."

(5) The form will also contain as an attachment a copy of the identification credentials or driver's license examined by a commission agent at the time the request for voluntary exclusion is made, containing the signature of the person requesting placement on the self-exclusion list.

(6) The signature of a commission agent, employee, or other person authorized by the executive director to accept the request for voluntary exclusion, indicating that the signature, physical description, and identity of the person on the request for voluntary exclusion agrees with the identification provided by that individual.

(e) The personal information of a person who participates in the voluntary exclusion program is confidential. An individual who elects to participate in the program must agree that in order to enforce the voluntary exclusion program, facilities under the jurisdiction of the commission must have access to the individual's personal information. Prior to placement on the voluntary exclusion list, an individual shall authorize the commission staff to provide the following necessary identifying information to the facilities under the jurisdiction of the commission on his or her behalf and for purposes of enforcement:

(1) Name, including any aliases or nicknames.

(2) Date of birth.

(3) Current residential address.

(4) Current telephone number.

(5) A physical description, including height, weight, gender, hair color, eye color, and any other physical characteristic that may assist in the identification of the person.

(6) A photograph of the individual that will be taken by commission agents at the time of voluntary exclusion.

(7) Driver's license number.

(f) A voluntarily excluded individual shall have the following ongoing obligations regarding the voluntary exclusion list:

(1) Refrain from entering the gaming areas of riverboats and other facilities under the jurisdiction of the commission until such time as a request for removal has been processed by the commission.

(2) Each time the personal information of a voluntarily excluded individual changes, he or she must provide the commission with the updated information.

(3) Notify the commission if direct mailing items are received addressed to a voluntarily excluded person at his or her residence.

(g) A voluntarily excluded individual who violates the terms of the voluntary exclusion list and enters the gaming area of a facility under the jurisdiction of the commission agrees to forfeit any jackpot or thing of value won as a result of a wager made at a facility under the jurisdiction of the commission. The forfeited jackpots or items will be withheld by the riverboat licensee or operating agent and remitted to the commission. The commission shall collect such items and funds as a fine levied against the voluntarily excluded individual for violating this rule. Voluntarily excluded individuals may appeal a forfeiture under this rule by following the procedures outlined in 68 IAC 7.

(h) Voluntarily excluded individuals agree to forfeit all points or complimentaries earned by the individual on or before the individual completes his or her request for placement on the voluntary exclusion list. Points or complimentaries refer to credits earned by a person under the terms of a riverboat licensee's or operating agent's marketing program as approved by the Commission, and shall include, but shall not be limited to:

- (1) food coupons;
- (2) coupons or vouchers for chips or tokens;
- (3) hotel complimentaries; or
- (4) any other such noncash benefit owing to the individual.

However, if at the time an individual makes a request for placement on the voluntary exclusion list he or she is owed a cash amount from a riverboat licensee or operating agent, the individual shall have the right to receive that amount from the riverboat licensee or operating agent after placement on the voluntary exclusion list. To the extent that complimentaries or points described above may be redeemed for cash under the riverboat licensee or operating agent's marketing program, the individual shall be entitled to receive that amount.

(i) Nothing in this rule shall prohibit a riverboat licensee or operating agent from alerting local law enforcement authorities of a voluntarily excluded person's presence in a facility under the jurisdiction of the commission to effect an arrest for trespassing. (*Indiana Gaming Commission; 68 IAC 6-3-2*)

68 IAC 6-3-3 Voluntary exclusion list

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 3. (a) The executive director or his designee shall maintain the voluntary exclusion list, which shall contain the names and personal information of the persons participating in the program. Such persons shall be excluded from gaming areas at all facilities under the jurisdiction of the commission. The executive director or his designee shall notify each riverboat licensee or operating agent of each facility under the jurisdiction of the commission of each addition to the list or deletion from the list in a timely manner.

(b) The voluntary exclusion list is confidential and may be disseminated only to a riverboat licensee or operating agent for purposes of enforcement or to any other entity designated by statute. (*Indiana Gaming Commission; 68 IAC 6-3-3*)

68 IAC 6-3-4 Rights and duties of riverboat licensees and operating agents

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 4. (a) Each riverboat licensee, riverboat license applicant, operating agent, and operating agent applicant shall establish internal control procedures for compliance with this rule, which shall be submitted and approved by the commission under 68 IAC 11-1-3.

(b) The internal controls must, at a minimum, address the following:

- (1) Procedures must provide a plan for distributing the list of persons who have voluntarily excluded and their personal information to appropriate personnel of the facility for purposes of enforcing the program. The plan must allow, to a reasonable extent, appropriate employees of a riverboat licensee or operating

agent to identify a voluntarily excluded person when that person is present in a casino or other facility under the jurisdiction of the commission. Such information shall not be released to casinos in other jurisdictions. However, nothing in this rule shall prohibit a riverboat licensee or operating agent from effectuating the eviction of a voluntarily excluded person from other properties within their corporate structure so that the person will be denied gaming privileges at casinos under the same parent company in other jurisdictions.

(2) Must provide a process whereby commission agents and security and surveillance are notified immediately when a voluntarily excluded person is detected in the gaming area of a facility.

(3) Must refuse wagers from and deny gaming privileges to any individual who the casino knows to be a voluntarily excluded person.

(4) Make all reasonable attempts to ensure that voluntarily excluded persons do not receive direct marketing. A riverboat licensee or operating agent will satisfy this requirement if the riverboat licensee or operating agent removes the individual's name from the list of patrons to whom direct marketing materials are sent, and the individual does not receive direct marketing materials more than forty-five (45) days after the riverboat licensee receives notice, under section 3(a) of this rule, that the individual has appeared on the voluntary exclusion list.

(5) Ensure that voluntarily excluded persons do not receive check cashing privileges or extensions of credit, whether directly through the riverboat licensee or operating agent, or through a supplier contracting with a riverboat licensee or operating agent on property hired for the purpose of check cashing or extension of credit, or both.

(c) Nothing in this rule shall prohibit a riverboat licensee or operating agent from seeking payment of a debt from a voluntarily excluded person if the debt was accrued by a person before his or her name was placed on the voluntary exclusion list.

(d) A riverboat licensee or operating agent shall post signs at the turnstiles marking the entrance to the gaming area that will inform and educate patrons about the voluntary exclusion program. The text that will appear on the signs must be submitted to the commission staff for approval prior to posting.

(e) A riverboat licensee or operating agent shall be subject to disciplinary action under 68 IAC 13 for failure to comply with the requirements of this section and the internal control procedures outlined pursuant to this section, including, but not limited to, the following:

(1) Release of confidential information for a purpose other than enforcement.

(2) Knowingly refusing to withhold direct marketing, check cashing, and credit privileges.

(3) Failure to follow internal control procedures adopted under this rule.

(Indiana Gaming Commission; 68 IAC 6-3-4)

68 IAC 6-3-5 Removal from voluntary exclusion list

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 5. (a) This section does not apply to those voluntarily excluded individuals who elected lifetime exclusion under section 2(d) of this rule.

(b) A person may, upon the expiration of the selected term of voluntary exclusion, request removal of his or her name from the voluntary exclusion list. A person making a request for removal must do so by presenting to a commission office or other location designated by the executive director and declaring, in writing, on a form provided by the commission, the intent to remove his or her name from the voluntary exclusion list.

(c) A request for removal from the voluntary exclusion list shall contain the following information:

(1) Name, including aliases or nicknames.

(2) Date of birth.

(3) Address of current residence.

(4) Telephone number of current residence.

(5) The signature of the person requesting removal from the voluntary exclusion list indicating acknowledgement of the following statement: "I certify that the information that I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for placement on the voluntary exclusion list, and I authorize the commission to permit all Indiana riverboat licensees or other facilities under the jurisdiction of the commission to reinstate my gaming privileges."

(6) The signature of the commission agent or other individual authorized by the executive director to accept a request for removal, verifying that the individual requesting removal is the voluntarily excluded individual.

(d) Upon receipt of a request for removal, the commission shall effectuate the removal of the name of the individual requesting removal from the voluntary exclusion list. The commission shall act upon a request for removal within thirty (30) days of receipt of such request.

(e) The commission shall notify each riverboat licensee or operating agent each time an individual is removed from the voluntary exclusion list. Once an individual's name has been removed from the voluntary exclusion list, nothing in this rule shall prohibit a riverboat licensee or operating agent from marketing directly to that individual, cashing checks of such a person, or extending credit to the individual. (*Indiana Gaming Commission; 68 IAC 6-3-5*)

TITLE 68 INDIANA GAMING COMMISSION

LSA DOCUMENT #03-204(F)

All public comments with respect to this rule document were fully considered by the Commission.

IN ACCORDANCE WITH THE COMMISSION'S STATUTORY AUTHORITY AND IC 4-22-2, THE ABOVE RULES TEXT WAS ADOPTED ON NOVEMBER 14, 2003 BY A 5 TO 0 VOTE OF THE COMMISSION AT A DULY HELD PUBLIC MEETING AT WHICH A QUORUM WAS PRESENT. THE RULE WAS ADOPTED IN A FORM THAT IS DIFFERENT FROM THE PROPOSED RULE THAT WAS PUBLISHED IN THE OCTOBER 1ST, 2003 EDITION OF THE *INDIANA REGISTER*.

Attest:

Glenn R. Lawrence
Executive Director

Date

Approved as to legality:

Stephen Carter
Attorney General of Indiana

Date

Approved:

Joseph E. Kernan
Governor

Date

Accepted for Filing:

Todd Rokita
Secretary of State

Date